

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED
2010 JUN 18 PM 2:55

KAY YOUNGER,

Plaintiff,

V.

BROOKDALE SENIOR LIVING, INC.,

Defendant.

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SA10CA050506

CIVIL ACTION NO. _____

PLAINTIFF DEMANDS A JURY TRIAL.

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes KAY YOUNGER, hereinafter referred to as Ms. Younger or as the Plaintiff, complaining of BROOKDALE SENIOR LIVING, INC., hereinafter referred to as Brookdale or as the Defendant, and for her cause of action against the Defendant, Plaintiff would respectfully show this Honorable Court as follows:

NATURE OF THE CASE

(1) This is a civil action brought by the Plaintiff KAY YOUNGER against the Defendant BROOKDALE SENIOR LIVING, INC., wherein the Plaintiff alleges that her former employer, the Defendant, discriminated against her because of her sex, and retaliated against her, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.

JURISDICTION

(2) This court has jurisdiction of this civil action pursuant to the provisions of 28 U.S.C. § 1331 and 42 U.S.C. § 2000e-5(f)(3).

VENUE

(3) Venue of this civil action in the San Antonio Division of the Western District of Texas is proper under 42 U.S.C. § 2000e-5(f)(3) in that the unlawful employment practices which

Plaintiff alleges Defendant committed occurred in San Antonio, Texas.

PARTIES

(4) The Plaintiff, KAY YOUNGER, is a female citizen of the United States, and is a resident of Cibolo, Guadalupe County, Texas. At all times material and relevant hereto, the Plaintiff was an “employee” of the Defendant, as that term is defined at 42 U.S.C. § 2000e(f).

(5) The Defendant, BROOKDALE SENIOR LIVING, INC. is a corporation organized under the laws of the State of Delaware, is authorized to do business in the State of Texas, and does, in fact, do business in the State of Texas as the Towers on Park Lane in San Antonio, Bexar County, Texas. At all times material and relevant hereto, the Defendant was the Plaintiff’s “employer,” as that term is defined at 42 U.S.C. § 2000e(b). For purposes of applying the provisions of 42 U.S.C. § 1981a, Plaintiff alleges that Defendant employs more than 500 employees. Said Defendant may be served with summons herein by delivering the same to the corporation’s registered agent, CT Corporation System, at 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201-4234 .

FACTS

(6) The Plaintiff, KAY YOUNGER, was employed by the Defendant BROOKDALE SENIOR LIVING, INC. from on or about August 3, 1998 to June 22, 2009 as an Administrative Assistant in the Food & Beverage Department at the Towers on Parklane.

(7) Ms. Younger was discharged by Brookdale on June 22, 2009 for the stated reason of “insubordination.” Ms. Younger alleges that the stated reason for her discharge is pretextual, and that the real reason she was discharged is because she is female and because she complained about sex discrimination during the period of her employment with Brookdale.

(8) During the period of her employment with Brookdale, beginning in February of 2008,

Ms. Younger was frequently subjected by her supervisor, the Food Service Director Ian Reynolds, to unwelcome and offensive stories, jokes and comments which were sexually oriented or which contained sexual innuendos. Ms. Younger expressed her displeasure to Mr. Reynolds, but the stories, jokes, and comments continued.

(9) In April or May of 2008, Ms. Younger complained to Mr. Reynolds' Director of Operations Jeff Vetter, and told him that Mr. Reynolds' stories, jokes and comments were offensive to her, and that she did not want to hear them anymore.

(10) After she complained to Mr. Vetter, Mr. Reynolds expressed his displeasure with Ms. Younger for having done so. At a departmental meeting shortly after her complaint to Mr. Vetter, Mr. Reynolds made a remark to the effect that someone had complained about him to Mr. Vetter, and that he would not allow anyone to go behind his back and complain about him. During Ms. Younger's annual performance evaluation in October of 2008, Mr. Reynolds referred to her complaint to Mr. Vetter about him. Mr. Reynolds told Ms. Younger that anything he said to her behind closed doors that was repeated to Mr. Vetter would be denied. He also told Ms. Younger, "If anyone is going to be fired, I will see to it that it is you." In January or February of 2009, Mr. Reynolds repeated his threat to Ms. Younger, and told her that she was the reason he was not able to develop rapport with other employees in the department.

(11) On June 19, 2009, Ms. Younger was presented with a corrective action form by Mr. Reynolds alleging that (a) Ms. Younger had refused to provide information to Mr. Reynolds which he had recently requested; (b) Ms. Younger's work was not accurate and that she was not paying attention to detail; (c) Ms. Younger continued to engage in "gossip"; and (d) Ms. Younger needed to build "better and more effective relationships with the rest of the department.

(12) On June 22, 2009, she was discharged.

(13) Ms. Younger filed a charge of discrimination with the San Antonio Field Office of the U.S. Equal Employment Opportunity Commission, alleging that Brookdale discriminated against her on the basis of her sex and retaliated against her.

(14) On April 9, 2010, the EEOC issued a Notice of Right to Sue to Ms. Younger, and this civil action is being timely filed.

CAUSE OF ACTION

(15) The Plaintiff KAY YOUNGER now brings this civil action against the Defendant BROOKDALE SENIOR LIVING, INC., alleging that she was discharged on June 22, 2009 because she is a female, and because she complained about sex discrimination during the period of her employment with Brookdale. As relief, Plaintiff seeks reinstatement, back pay with interest, compensatory and punitive damages, pursuant to 42 U.S.C. § 1981a, and her reasonable and necessary attorney's fees and costs of court incurred herein, pursuant to 42 U.S.C. § 2000e-5(k).

JURY DEMAND

(16) Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Plaintiff demands a trial by jury of her claims and causes of action herein.

WHEREFORE, the Plaintiff, KAY YOUNGER, respectfully prays that summons be issued and served upon the Defendant, BROOKDALE SENIOR LIVING, INC., together with a copy of this Complaint, and that, upon final hearing hereof, Plaintiff shall have and recover judgment of and from the Defendant granting the relief requested hereinabove.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Glen D. Mangum", written over a horizontal line.

GLEN D. MANGUM

State Bar No. 12903700

924 Camaron

San Antonio, Texas 78212-5111

Telephone No. (210) 227-3666

Telecopier No. (210) 320-3445

**ATTORNEY FOR PLAINTIFF
KAY YOUNGER**